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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,507	09/08/2003	William H. Shepard	05918-133002	9338

26161 7590 06/30/2005

FISH & RICHARDSON PC  
225 FRANKLIN ST  
BOSTON, MA 02110

EXAMINER
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BEFUMO, JENNA LEIGH

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/657,507

Applicant(s)

SHEPARD ET AL.

Examiner

Jenna-Leigh Befumo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 8,22 and 24-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-21,23,39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Response to Amendment***

1. Claims 1- 39 are pending. Claims 8, 22, and 24 – 38 are withdrawn from further consideration as being drawn to a nonelected invention.

***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1 – 7, 9, 10, 11, 13 – 21, and 39 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Shepard et al. (WO 99/11452) in view of Franz (5,224,895) and Nemec et al. (6,010,387) for the reasons of record.

4. Claims 1 – 7, 9 – 11, 13 – 21, and 39 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Lawless (5,891,547) in view of Franz and Nemec et al. for the reasons of record.

5. Claims 1 – 2, 4, 5, 6, 9, - 11, 13 – 20, and 39 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Nemec et al. in view of Lawless and Franz for the reasons of record.

6. Claim 23 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Shepard et al., Franz, and Nemec et al. as applied to claim 1 above, and further in view of Powell (5,603,504), and Bricker (5,664,780) for the reasons of record.

Claim 23 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Lawless, Franz, and Nemec et al. as applied to claim 1 above, and further in view of Powell and Bricker for the reasons of record.

Claim 23 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Nemec et al., Lawless, and Franz as applied to claim 1 above, and further in view of Powell and Bricker for the reasons of record.

***Response to Arguments***

7. Applicant's arguments filed December 29, 2005 have been fully considered but they are not persuasive. First, it is noted that the applicant implies that the Shepard et al. reference might not be valid as prior art (response, page 7). If the applicant has grounds why this reference cannot be used as prior art then the applicant should provide those arguments to facilitate prosecution. However, it is the Examiner's view that the reference is a valid prior art reference and it will be applied as prior art until the applicant provides sufficient reason otherwise.

8. The applicant argues that it would not have been obvious to use either of the light weight loop materials taught by Shepard or Lawless with Franz since Franz teaches that when hook and loop materials are used they are to be securely fastened to the respective components so that they cannot be removed such as by sewing (response, pages 7 – 8). First, there is nothing in Shepard or Lawless which exclude them from being sewn onto a backing material. There is nothing in either Lawless or Shepard which would teach away from using the loop material in hook and loop systems where one or both of the components should be sewn to the backing material.

While the type of stitch used to attach the light weight loop material would need to be controlled the material could still be sewn to a backing layer. Second, there is nothing in Franz that requires the only method of securing the hook and loop material to the components is sewing. There is no teaching by Franz that limits the type of hook and loop fasteners which can be used with the display system. Third, Franz is relied on to teach different types of backing materials

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and display systems that hook and loop fasteners can be used in. Hence, Franz teaches that in display systems where items are removably attached by using fasteners such as hook and loop fasteners, various materials can be used as the backing materials for these display boards including paper and plastic materials or various thicknesses. Thus, one of ordinary skill in the art would know that this teaching would relate to display boards that can be used in various situations and not just display boards and display systems used with small children.

9. Further, the applicant argues that it would not have been obvious to replace the corrugated plastic taught by Nemec with corrugated paper board (response, page 8). However, as set forth above, and previously, Franz discloses that display systems can be made with plastic and paper materials. Further, not only are paper materials light weight and less expensive than plastic materials, they can be produced from recycled materials and recycled themselves and are easily disposable. Thus, the teaching supplied by Franz and the common knowledge of those with ordinary skill in the art would provide the motivation to use a corrugated product made from paper instead of plastic. Therefore, the rejections are maintained.

10. Finally, with respect to the rejection based on Nemec in view of Lawless and Franz, the applicant argues that there is no motivation to substitute the light weight fabric of Lawless or the paper material instead of the plastic corrugated material as suggested by Franz (response, page 8). With respect, to the substitution of the lightweight fabric taught by Lawless, Lawless provides motivation of why to use the material as loop fabric in hook and loop fasteners. Thus, based on Lawless own teaching that the lightweight nonwoven fabric is made by an efficient and cost-effective process and easily engages with hook fasteners for a more cost-effective loop material it would have been obvious to one having ordinary skill in the art to use Lawless

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nonwoven loop material instead. Further, as set forth above, Franz discloses that plastic backing layers in display systems can be replaced with paper substrates. Thus, it would have been obvious to one having ordinary skill in the art to use a cheaper corrugated paper backing instead. Therefore, the rejections are maintained.

***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (571) 272-1472. The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jenna-Leigh Befumo  
June 24, 2005



CHERYL A. JUSKA  
PRIMARY EXAMINER